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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,444	11/26/2003	Jean-Philippe Jomini	7419-0001	5970
39207	7590	09/22/2004	EXAMINER	
SACCO & ASSOCIATES, PA P.O. BOX 30999 PALM BEACH GARDENS, FL 33420-0999				KOPPIKAR, VIVEK D
ART UNIT		PAPER NUMBER		
		3626		

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

KM

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/723,444	JOMINI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vivek D Koppikar	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 26 November 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Status of Application***

1. This communication is in response to the application filed on November 26, 2003. This non-provisional application claims benefit to provisional application number 60/429,748 filed on November 27, 2002. The Information Disclosure Statement (IDS) statement filed by the applicants on March 4, 2004 has been acknowledged by the examiner. Claims 1-26 are pending in this application and have been examined.

### ***Claim Objections***

2. Claim 20 objected to because of the following informalities: It is not clear what "system" (2<sup>nd</sup> occurrence in line 1 of claim 20) refers to. Appropriate correction and/or clarification is required.

For the purposes of examination, "system" will be interpreted as the processing device.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the

reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-2, 6-12, and 14-25 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Number 6,398,727 to Bui.

Bui is directed towards a method and apparatus for providing patient care.

As per claim 1, which is directed towards a method for in-home monitoring, Bui teaches the step of monitoring at least one behavioral parameter associated with a person (Col. 6, Ln. 6-30), comparing the behavioral profile to at least one pre-determined rule which is based upon a behavioral profile (Col. 6, Ln. 45-47), triggering an exception if the behavioral parameter does not match the behavioral profile (fall outside a predetermined range) (Col 6, Ln. 45-47) and initiating at least one action (sounding an alarm) responsive to the exception (Col. 6, Ln. 45-50).

As per claim 2, in Bui the step of initiating at least one action step further comprises forwarding the exception to a monitoring system (Col. 6, Ln. 45-47).

As per claim 6, in Bui the behavioral parameter that is monitored is an acoustic (aural) signal (Col. 4, Ln. 33-34).

As per claim 7, in Bui the data representing the behavioral parameter is wirelessly propagated from a sensing device to a device interface (Col. 6, Ln. 45-55).

As per claim 8, Bui comprises the step of monitoring one environmental parameter (Col. 6, Ln. 45-47), comparing the environmental parameter to at least one pre-defined environment rule (out of range values) (Col. 6, Ln. 45-47) and triggering an exception (alarm signal) if the environment parameter correlates to an environment condition (out of range values) that has been pre-defined to trigger the exception (Col. 6, Ln. 45-50).

As per claim 9, in Bui the environmental parameter is an acoustic (aural) signal (Col. 4, Ln. 33-34).

As per claim 10, Bui comprises the steps of monitoring at least one medical parameter (Col. 6, Ln. 14-30), comparing the medical parameter to at least one pre-determined medical rule (range) (Col. 6, Ln. 45-47), triggering an exception (alarm signal) if the medical parameter correlates to a medical condition (out of range valued) pre-defined to trigger the exception (Col. 6, Ln. 45-50).

As per claim 11, in Bui the medical parameter that is monitored is blood pressure (Col. 6, Ln. 20-25).

As per claim 12, the system of Bui comprises a device (20) within the home of the person wherein the processing device provides the monitored behavioral parameters to at least one monitoring station located outside the home (Figure 1 and Col. 6, Ln. 6-13 and Ln. 47-67).

As per claim 14, in Bui the step of initiating the action comprises generating a client-phone localized emergency call (Col. 6, Ln. 53-55 and Col. 12, Ln. 19-26).

As per claim 15, which is directed towards a system for in-home monitoring, Bui teaches a sensor for monitoring at least one behavioral parameter associated with a person and generating correlating data (Col. 6, Ln. 14-30 and 45-47), a processing device (20) (Col. 15, Ln. 1-8), and at least one software application executing data on the processing device, the software application comparing data to the pre-determined rule (range) which is based upon a behavioral profile (articulated by monitored values) and triggering an exception (alarm signal) if the data correlated to a condition (out of range values) pre-defined to trigger the exception (Col. 6, Ln. 45-50).

As per claim 16, in Bui the system includes a device interface for receiving data and forwarding the data to a processing device (Col. 6, Ln. 6-13 and 26-30).

As per claim 17, in the system of Bui the sensor wirelessly propagates data to the device interface (Col. 6, Ln. 50-52).

As per claim 18, the system of Bui comprises a communication link for communicating with a monitoring station (Figures 20A-20C and Col. 6, Ln. 31-41).

As per claim 19, in the system of Bui the processing device forwards the exception (out or range value) to the monitoring station via the communication link (Col. 6, Ln. 45-55).

As per claim 20, in the system of Bui the processing device receives remote commands (e.g. to activate an emergency system) from the monitoring station (Col. 12, Ln. 21-26).

As per claim 21, in Bui the remote commands (e.g. the communications unit transmits an “Alert” (Command) to that a temperature (from the sensor) is out of limit) control a sensor and a medical device (Col. 8, Ln. 32-39).

As per claim 22, the system of Bui initializes a client-phone emergency call by sending a command over the communication link (Col. 12, Ln. 17-26).

As per claim 23, in the system of Bui the sensor is a an infrared motion detector (Col. 18, Ln. 22-36).

As per claims 24-25, in the system of Bui the sensor monitors a physical attribute (e.g. breathing pattern) of a person (Col. 18, Ln. 22-36).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bui, as applied to Claim 1 above, and in further view of US Patent Application Publication 2002/0029203 to Pelland.

Bui fails to teach or suggest that the behavioral profile is empirically determined through artificial intelligence using an inference engine; however this feature is known in the art as evidenced by Pelland. Pelland, which is directed towards an electronic personal assistant with personality adaptation, teaches an artificial intelligence unit coupled to a personal assistant which analyzes behavior information using an inference engine (Section [0050]). At the time invention was made, one of ordinary skill in the art would have been motivated to modify the personal monitor (20) of Bui by adding the artificial intelligence unit and inference engine as taught by Pelland in order to have obtained an enhanced means of determining personality or behavioral information regarding a patient (Pelland, Section [0050]).

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bui, as applied to claim 1 above, and in further view of US Patent Application Publication 2002/0080034 to Yahalom.

Bui fails to teach or suggest the step of generating a medication reminder for the patient; however, this feature is known in the art as evidenced by Yahalom. Yahalom, which is directed towards a medication reminder device, teaches the step of generating a medication reminder (Sections [0023] and [0028]-[0030]). At the time the invention was made, one of ordinary skill in the art would have been motivated to add the medication reminder feature to the patient

monitor (20) of Bui in order to provide a means of reminding a patient to take their medicines so that the patient will not forgot to take their medicine and more serious illnesses will not arise later on (Section [0002]-[0003]).

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bui, as applied to claim 15 above, and in further view of US Patent Application Publication 2002/0192625 to Mizokawa.

Bui fails to teach or suggest a roving robot which monitors at least one of the behavioral, environmental and a physical attribute of a person; however, this feature is known in the art as evidenced by Mizokawa. Mizokawa, which is directed towards a monitoring device and system, teaches a robot which monitors a wide range of data and transmits the data to a terminal (Section [0064]). At the time the invention was made, one of ordinary skill in the art would have been motivated to add this monitoring robot proximate the patient monitor (20) in the system of Bui in order to have obtained a monitoring means which is capable of adapting to various external and environmental factors as recited in Mizokawa (Section [0005]).

### *Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Vivek Koppikar** whose telephone number is (703) 305-5356. The examiner can normally be reached on Monday-Friday from 8 AM to 5 PM, Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas, can be reached at (703) 305-9588. The fax phone number for the organization where this application or proceeding is assigned are (703) 872-9306.

Art Unit: 3626

10. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vivek Koppikar

8/31/04



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